



DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

[Docket No. PTO-C-2013-0038]

Trademark Public Advisory Committee

AGENCY: United States Patent and Trademark Office

ACTION: Notice and request for nominations for the Trademark Public Advisory Committee.

SUMMARY: On November 29, 1999, the President signed into law the Patent and Trademark Office Efficiency Act (the “Act”), Pub. L. 106-113, which, among other things, established two Public Advisory Committees to review the policies, goals, performance, budget and user fees of the United States Patent and Trademark Office (USPTO) with respect to patents, in the case of the Patent Public Advisory Committee, and with respect to trademarks, in the case of the Trademark Public Advisory Committee, and to advise the Director on these matters (now codified at 35 U.S.C. § 5). The America Invents Act Technical Corrections Act made several amendments to the 1999 Act, including the requirement that the terms of the USPTO Public Advisory Committee members be realigned so that by 2014, December 1 be used as the start and end date, with terms staggered so that each year three existing terms expire and three new terms begin on December 1. Pub. L. 112-274, Sec. 1(l)(2) (January 14, 2013). Through this Notice,

the USPTO is requesting nominations for up to three (3) members of the Trademark Public Advisory Committee for terms of approximately three years that begin on December 6, 2013. There are no vacancies expected on the Patent Public Advisory Committee for December 2013. Accordingly, no nominations are being sought for the Patent Public Advisory Committee at this time.

DATES: Nominations must be postmarked or electronically transmitted on or before September 30, 2013.

ADDRESSES: Persons wishing to submit nominations should send the nominee's resume to John W. Cabeca, Senior Advisor, Office of the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, Post Office Box 1450, Alexandria, Virginia, 22313-1450; by electronic mail to TPACnominations@uspto.gov; by facsimile transmission marked to the Senior Advisor's attention at (571) 273-0464; or by mail marked to the Senior Advisor's attention and addressed to the Office of the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, Post Office Box 1450, Alexandria, Virginia, 22313-1450.

FOR FURTHER INFORMATION CONTACT: John W. Cabeca, Senior Advisor, Office of the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, by facsimile transmission marked to his attention at (571) 273-0464, or by mail marked to his attention and addressed to the Office of the Under Secretary of Commerce for Intellectual Property and Director of the USPTO, Post Office Box 1450, Alexandria, Virginia, 22313-1450.

SUPPLEMENTARY INFORMATION: The Trademark Public Advisory Committee duties include:

- Review and advise the Under Secretary of Commerce for Intellectual Property and Director of the USPTO on matters relating to policies, goals, performance, budget, and user fees of the USPTO relating to trademarks; and
- Within 60 days after the end of each fiscal year: (1) prepare an annual report on matters listed above; (2) transmit the report to the Secretary of Commerce, the President, and the Committees on the Judiciary of the Senate and the House of Representatives; and (3) publish the report in the Official Gazette of the USPTO.

Advisory Committee

The Trademark Public Advisory Committee is composed of nine (9) voting members who are appointed by the Secretary of Commerce (the “Secretary”) and serve at the pleasure of the Secretary for three-year terms. Members are eligible for reappointment for a second consecutive three-year term. The Trademark Public Advisory Committee members shall be citizens of the United States and shall represent small and large entity applicants located in the United States in proportion to the number of applications filed by such applicants. The Committee shall include individuals with “substantial backgrounds and achievement in finance, management, labor relations, science, technology, and office automation.” 35 U.S.C. 5(b)(3). The Committee also includes three (3) non-voting members representing each labor organization at the USPTO.

Administration policy discourages the appointment of federally registered lobbyists to agency advisory boards and commissions (Lobbyists on Agency Boards and Commissions,

<http://www.whitehouse.gov/blog/2009/09/23/lobbyist-agency-boards-and-commissions>

(Sept. 23, 2009, 2:33PM EST)); cf. Exec. Order No. 13490, 74 Fed. Reg. 4673 (January 21, 2009) (While Executive Order 13490 does not specifically apply to federally registered lobbyists appointed by agency or department heads, it sets forth the Administration’s general policy of decreasing the influence of special interests in the Federal Government).

Procedures and Guidelines of the Trademark Public Advisory Committee

Each newly appointed member of the Trademark Public Advisory Committee shall serve a term of approximately three (3) years beginning December 6, 2013, and ending on December 1, 2016. *See* AIA Technical Corrections Act, § 1(2)(B) (transition to December 1 as start and end date for terms). As required by the 1999 Act, members of the Trademark Public Advisory Committee will receive compensation for each day (including travel time) while the member is attending meetings or engaged in the business of the Committee. The enabling statute states that members are to be compensated at the daily equivalent of the annual rate of basic pay in effect for level III of the Executive Schedule under section 5314 of Title 5, United States Code. Committee members are compensated on an hourly basis, calculated at the daily rate. While away from home or regular place of business, each member shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by Section 5703 of Title 5, United States Code.

Applicability of Certain Ethics Laws

Public Advisory Committee Members shall be Special Government Employees within the meaning of Section 202 of Title 18, United States Code. The following additional information includes several, but not all, of the ethics rules that apply to members, and assumes that members are not engaged in Public Advisory Committee business more than 60 days during any period of 365 consecutive days.

- Each member is required to file a confidential financial disclosure form within thirty (30) days of appointment. 5 C.F.R. 2634.202(c), 2634.204, 2634.903, and 2634.904(b).
- Each member will be subject to many of the public integrity laws, including criminal bars against representing a party in a particular matter that came before the member's committee and that involved at least one specific party. 18 U.S.C. 205(c); *see also* 18 U.S.C.

207 for post-membership bars. A member also must not act on a matter in which the member (or any of certain closely related entities) has a financial interest. 18 U.S.C. 208.

- Representation of foreign interests may also raise issues. 35 U.S.C. 5(a)(1) and 18 U.S.C. 219.

Meetings of the Trademark Public Advisory Committee

Meetings of the Trademark Public Advisory Committee will take place at the call of the Committee Chair to consider an agenda set by that Chair. Meetings may be conducted in person, telephonically, on-line through the Internet, or by other appropriate means. The meetings of the Advisory Committee will be open to the public except the Committee may, by majority vote, meet in executive session when considering personnel, privileged, or other confidential information. Nominees must have the ability to participate in Committee business through the Internet.

Procedures for Submitting Nominations

Submit resumés for nomination for the Trademark Public Advisory Committee to:

John W. Cabeca, Senior Advisor, Office of the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office, utilizing the addresses provided above.

Dated: July 23, 2013. _____

Teresa Stanek Rea
Acting Under Secretary of Commerce for Intellectual Property and
Acting Director of the United States Patent and Trademark Office

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